



Mail-aways Defined
[Applies to Houston-area counties *only*]

General

“Mail-away” or “mail-out” are terms commonly used in the title insurance industry to describe a practice where one or more of the closing documents are directly sent by the title company to a party in a real estate transaction for signature; this practice is often used in one-sided transactions such as refinances and reverse mortgages. A mail-away may not constitute a business presence *if* it conforms to Title Data’s definition for “mail-away.” Title Data’s customers and non-customers (out-of-county title companies) may wish to use caution, however, when assuming that their mail-away practices conform to Title Data’s definition, as it has been Title Data’s experience that most mail-aways fail to meet Title Data’s definition.

Definition

To meet Title Data’s definition of “mail-away” *all* of the following conditions must be met:

1. If a party to a pending real estate transaction is located in the same county as where the property is located, the closing documents *must* be sent *directly* by the out-of-county title company to such party or parties by common carrier, where common carrier is defined to be the United States Postal Service, the Internet, facsimile transmission (fax), Federal Express, UPS and similar.
2. If a party to a pending real estate transaction is located in the same county as where the property is located, and the closing documents are sent to such party in accordance with #1, there can be *no* directions given to the party as to where to take the closing documents for notarization. The out-of-county title company cannot enclose a list of notaries, direct the party to a specific notary or group of notaries, ask the party to go to a specific firm or location to have the documents notarized, direct the party to a website to select a notary, or otherwise advise, recommend or suggest where the closing documents should be taken for notarization. The *only* instruction the out-of-county title company can give a party is something similar to “Take the enclosed documents to a notary of your choosing for signature.”

Practices Which Do *Not* Meet Title Data’s Definition

- Documents delivered to a party to the pending real estate transaction by a signing service, mobile notary or similar.
- Documents delivered to an intermediary (for example, a lender, attorney or title company) with either instructions to the intermediary to contact the party (to arrange the signing) or instructions to the party to contact the intermediary.
- Documents delivered with instructions to select a notary from a list of notaries, including lists posted on a website.
- Documents delivered with instructions to take them to a specific office or location, or list of offices or locations, for signature.

Title Data's Audit of Mail-aways

Title Data routinely audits out-of-county co-ops [please see [Business Presence Defined](#) or [Out-of-County Co-op](#) on this website] to confirm that the out-of-county title company did not establish a business presence in conjunction with a title insurance commitment furnished by a Title Data customer. In response to a Title Data inquiry into a possible business presence violation a customer may be told by the out-of-county title company that it did a mail-away. To confirm that the mail-away conforms to Title Data's definition, Title Data will often ask its customer to obtain from the out-of-county title company (i) a copy of the transmittal letter [addressed to the party to the transaction and which accompanied the closing documents] and (ii) the common carrier's waybill [when closing documents are physically delivered] or a copy of the e-mail used [when closing documents are electronically delivered].